

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6003 of 1998

with

SPECIAL CIVIL APPLICATION No 706 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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SUKHABHAI ZAVERBHAI HALPATI

Versus

STATE OF GUJARAT

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Appearance:

1. Special Civil Application No. 6003 of 1998  
MR PM BHATT for Petitioners absent  
Ms. Harsha N Devani, AGP for the respondents.
2. Special Civil ApplicationNo 706 of 1995  
MR PM BHATT for Petitioners  
Ms. Harsha N. Devani, AGP for the respondents.

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CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 12/04/99

## ORAL JUDGEMENT

List has been revised. Nobody is present on behalf of the petitioners to press this petition.

2. This petition has been filed for quashing the impugned orders at Annexures "A", "F", "G", "B" and "C" passed by the respondent nos. 1, 2 and 3 i.e. the order dated 30.4.90 passed by the Competent Authority declaring 3000 sq.mtrs. of land as retainable land of the petitioners and lands admeasuring 20763 sq.mtrs. as excess vacant land. This order dated 30.4.90 does not appear to have been challenged before the Court of law. It appears from the averments made in para-3 of the petition that this land was claimed for four units and that order was not challenged anywhere. It is mentioned in the order passed by the Urban Land Tribunal that in the application for condonation of delay, during the hearing of that application, on behalf of the petitioners, it was stated that the petitioners came to know about the real consequences of the impugned order only recently when they happened to meet a social worker. A plea was also taken up before the Tribunal that they are illiterate and were unable to understand the consequences of the impugned order. It was also argued before the Tribunal that "sufficient cause" should be interpreted liberally as laid down in various rulings of the High Court and the Supreme Court. The Tribunal found inordinate delay of six years in filing the appeal in which the surplus land was declared and that surplus land has already been disposed of. The proceedings were completed under sections 10(3) and 10(5) of the Urban Land (Ceiling and Regulation) Act, 1976. After declaring surplus land, it was disposed of under section 23 of the said Act. The Co-ordination Committee for the purpose had approved of granting 25 mtrs. of plot to poor persons of the city and 469 plots were demarcated, out of which possession of 234 plots has already been handed over to the allottees. The process of allotting remaining 235 plots was also to be completed. It appears that a statement was made on 19.3.99 by the learned advocate for the petitioner before this Court that some order dated 22nd July, 1998 passed in Special Civil Application no. 138 of 1998 covers the question in issue.

3. I have gone through the order dated 22nd July, 1998 which was in respect of the application moved under section 20(1) of the Urban Land (Ceiling and Regulation) Act, 1976, whereas the petitioners claimed

four units and that plea was rejected by the Competent Authority and that was confirmed by the appellate authority (Tribunal). However, the question regarding exemption under section 20(1) of the Act was raised and some appeal was also filed before the Tribuna and that appeal was dismissed. The possession of the excess land has already been taken and most part of that land has already been distributed to weaker sections and part of the land which is to be distributed to the weaker sections. That application filed by the petitioners under section 20(1) of the Act has already been rejected and the in appeal also that order has been confirmed. Therefore, the point in the order dated 22nd July,1998 is totally diffferent and that is not covered by the point in issue. As such this petition has no merit and it deserves to be dismissed. Accordingly, the petition is dismissed in limine. Interim order stands vacated forthwith.

(Kundan Singh,J)

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